

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**GENWORTH FINANCIAL SECURITIES:
CORP.**

Plaintiff

v.

MUSUMECI, et al.

Defendant

:

:

Civil Action No. 11-2210(KSH)

:

:

**ORDER ON INFORMAL
APPLICATION**

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This matter having come before the court by way of letters dated May 2, 2011 and May 4, 2011, regarding the plaintiff's request for leave to file a motion to summary judgment;

and the Court having conducted a telephone conference on the record on May 11, 2011;

and the plaintiff representing that the sole issue in this case is whether or not the defendants' litigation conduct in the earlier case constitutes a waiver of their right to seek an arbitration before FINRA and that the record needed to resolve this case does not require discovery;

and the Court setting forth a protocol for the defendants to be notified of the evidence on which the plaintiff intends to rely and providing them with an opportunity to obtain and present additional information if needed and to allow for cross-motions for summary judgment to simultaneously proceed;

and for the reasons discussed during the telephone conference;

IT IS ON this 11th day of May, 2011

ORDERED that, no later than **May 13, 2011**, the plaintiff shall provide the defendants with a copy of the record on which they intend to rely in support of its cross-motion for summary

judgment;

IT IS FURTHER ORDERED that if the defendants contend that factual information needs to be added to the plaintiff's record, then they shall identify the information no later than **May 17, 2011**. If no information is identified, then no discovery will take place in this case; and

IT IS FURTHER ORDERED that the cross-motions for summary judgment shall be filed no later than **May 27, 2011** and the simultaneous responses shall be filed no later than **June 6, 2011**. No extensions under L. Civ. R. 7.1 will be permitted. The return date shall be **June 20, 2011** before the Hon. Katharine S. Hayden. Her Honor's Chambers will notify the parties if oral argument will be required.

s/Patty Shwartz
UNITED STATES MAGISTRATE JUDGE